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SUBJECT: BENIN: GOB AND CIVIL SOCIETY'S INITIATIVES TO COUNTER
TORTURE

REF: STATE 70129

This cable is a response to reftel.

11. SUMMARY: Pursuant to Article 2 of the UN Convention Against Torture (CAT), the GOB has taken measures to prevent acts of torture since it ratified the Convention on March 12, 1992. The GOB has developed initiatives, including the National Committee to Follow Up and Implement International Human Rights Instruments, the Human Rights Office of the Ministry of Justice, and the National Human Rights Advisory Council. The GOB has not, to date, included a specific definition of torture in criminal law, which hinders efforts to effectively fight torture as a criminal offence. National and international NGOs mostly engage in surveillance and public awareness campaign efforts; however, acts of torture persist in various forms. END SUMMARY.

GOB'S INITIATIVES TO COUNTER TORTURE

12. By the decree No 96-433 of 4 October 1996, the GOB created, the National Committee for the Follow Up and Implementation of International Human Rights Instruments. It provides efficiency training for committee members. In 1997, the government extended the Ministry of Justice's responsibility to include the protection of human rights by creating the Human Rights Office. The Human Rights Office advances and publicizes human rights through public outreach, developing national human rights policies, reporting on human rights and their related tools and documents, and partnering with NGOs to combat human rights violations. Officials of the Human Rights Office also protect and defend human rights by integrating international human rights instruments into internal legislation, visiting prisons to prevent abusive and arbitrary detention, considering human rights violation complaints, and protecting the rights of refugees, women and children.

13. By the decree No 97-503 of 16 October 1997, the GOB established, the National Human Rights Advisory Council. The Council serves as a framework for communication between the authorities and NGOs to advance the rule of law. The Council holds biannual sessions to monitor the implementation of international human rights instruments. The Ministry of Justice trains law enforcement agents on human rights and, in conjunction with the Ministry of Family, designs action plans to support the promotion of human rights, and to end gender-based violence.

14. Apart from the court system, there is a wide range of remedies regarding acts of torture. These include the Constitutional Court, the Ministry of Justice, and the Presidency for any act of torture committed on a citizen; the Ministry of Interior for acts of torture committed by the police; the Ministry of Defense for acts of torture committed by the military; the Ministry of Foreign Affairs for matters pertaining to extradition; and the Ministry of Civil Service

to take disciplinary action against civil servants who commit an act of torture while on duty.

NATIONAL AND INTERNATIONAL NGO EFFORTS

¶5. International and National NGOs that prove pro-active in the prevention of torture include: Amnesty International Benin; Christian Association for the Abolition of Torture in Benin (ACAT-Benin); Social Dimension and Organization for the Defense of Prisoners' Interests; Organization for the Defense of Prisoners' Interest (ODIP); Association of the Female Lawyers of Benin (AFJB); Prison Brotherhood; and Prisoners Without Borders. These NGOs focus mainly on prison visits, outreach awareness campaigns, and education programs for law enforcement agents. For instance, AFJB, Prison Brotherhood, and Afrika Obota, in conjunction with the Ministry of Justice, began implementing, in 2002, a legal assistance program for prisoners. The program includes all eight detention centers in Benin and provides each with a legal assistant. Legal assistants compile registers of detainees, follow cases, educate detainees on their rights and obligations, and provide them with legal aid. Special care is given to pregnant detainees.

GOB'S FAILURE TO INCLUDE DEFINITION
OF TORTURE IN NATIONAL CRIMINAL LAW

¶6. Torture is not criminalized under Beninese Criminal Law. Articles 18 and 19 of the Constitution prohibit torture and other cruel, inhuman or degrading treatment inflicted on public officials and

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provide punishment for individuals who commit such offenses, but these provisions are not integrated into criminal law as prescribed by Article 4 of the CAT. Article 19 of the Constitution provides that any civil servant who commits an act of torture shall be punished. However, acts of torture are not defined in criminal law and no penalties are provided for offenders. Criminal law does forbid other torture-related offences, including rape and battery. Ministry of Justice officials argue that failure to define acts of torture under criminal law does not significantly impact the prosecution and conviction of offenders as judges invoke other provisions under criminal law and other legislation and decrees to prosecute people who commit an act of torture. The fact remains that torture is widespread and comes in various forms throughout Benin: beating in custody, arbitrary arrest, mob justice, violence against women, child trafficking, and child labor.

BOUSTANI